



Title: First Considerations on the Italian Draft Law on Space: A Comment on the Legislation in the Approval Phase

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Abstract

This article analyzes the Italian Bill (DDL) on space activities in the light of the current international and European regulatory scenario, approved by the Italian Chamber of Deputies on 6 March 2025. Although the national initiative appears necessary to ensure legal certainty and promote investments, substantial aspects are highlighted that can compromise Italy's competitiveness in the space sector, in particular to the detriment of SMEs and startups. The work is configured as a first critical analysis of the Italian Bill on space activities, currently in the process of parliamentary approval. The aim is to highlight some potential critical issues and strengths of the regulatory text, offering a descriptive and contextualized reading of the emerging picture.

Introduction

In recent years, the space sector has undergone a profound transformation, evolving from the exclusive domain of states to a dynamic scenario open to the participation of private actors, in particular small and medium-sized enterprises (SMEs), startups and university consortia. The entry of new players has led to rapid growth in the sector, stimulated by increasingly extensive applications in areas such as navigation, Earth observation, telecommunications, meteorology, maritime surveillance and the Internet of Things (IoT). According to the OECD, the global value of the space economy exceeded \$447 billion in 2022, with average annual growth rates of more than 5%.¹

This evolution has highlighted the inadequacy of the existing regulatory framework at the international level, based mainly on the 1967 Outer Space Treaty², and called *Corpus Iuris Spatialis*, which, while establishing fundamental principles (such as the prohibition of sovereign appropriation and the peaceful use of space), does not provide sufficiently operational regulatory tools for the current context (UNOOSA, 1967). In fact, there is a lack of a uniform body of legislation capable of clearly defining liability, insurance regimes, authorization conditions and safety requirements. In addition, given the non-binding nature of international treaties, it is in any case necessary to have a transposition at national level to produce effective effects.

In response to this gap, several European countries are developing national regulations harmonized with the strategies of the European Union, as demonstrated by the *EEAS Strategic Compass*³ initiative and the activities of⁴ the European Commission's⁵ DG DEVIS. The common goal is to strengthen European technological sovereignty and ensure the security, competitiveness and sustainability of space activities in line with the Green Deal and digitalisation. It is not excluded, however, that this could also act as a vector for the *ReArm-Europe Plan*.

The Italian regulatory context

The bill in question, approved on 6 March 2025, represents an attempt to fill the national regulatory gap and define a regulatory framework for civil space activities. Although pioneering, it presents critical issues that could limit its effectiveness and hinder the development of the space sector, especially for emerging players.

First of all, there are definitional ambiguities: the definitions of "space object" and "space operator" (art. 2 of the Bill) are generic and susceptible to controversial interpretations. In the comparative field, it should be noted

¹ OECD, *The Space Economy in Figures*, 2022;

² UNOOSA, *Outer Space Treaty (OST)*, 1967;

³ European External Action Service, the diplomatic and information service of the European Union;

⁴ Directorate-General for Defence Industry and Space, the Directorate-General of the European Union;

⁵ European Commission, *EU Space Law Initiative – Consultation Document*, 2023;

that more mature legislation – for example the French one – offers a precise distinction between operators, owners and subcontractors, thus facilitating the traceability of responsibilities⁶. The absence of a clear definition risks producing legal uncertainty, lengthening authorization times, increasing litigation and discouraging foreign investors. In fact, it is difficult to identify the recipient of subjects such as *liability* and *responsibility*⁷, typical of the Anglo-Saxon system and cardinal in ascertaining liability for damage on the ground and especially in orbit, an aspect that is increasingly pressing in the light of upstream, downstream and *dual use applications*.

The strategic criticality of technology is linked to the use of the concept of "fundamental interest of the Republic" (art. 4), which, if not circumscribed by objective criteria, risks opening the door to discretionary denials, compromising legal certainty. A more transparent formulation is desirable, also in the light of the Italian constitutional jurisprudence on administrative limitations on the freedom to conduct a business (Article 41 of the Constitution; Constitutional Court, sent. 14/2020).⁸

The requirement of the Security Clearance (art. 5), in fact, is particularly onerous for SMEs and startups, introducing a significant barrier to entry into the sector. The current release system is complex, subject to legitimate confidentiality and with timing out of sync with the logic of the space economy. With the same technological contribution that can be transferred to the space sector, it *would be easier for a prime contractor*, with a greater structure and *know-how* than a startup, as well as a historical one, to obtain a NOS⁹ in time for market deadlines. At the same time, these meshes would trap all SMEs, numerically larger and historically rising to the role of *sub-prime contractor*. This would create a two-speed country-space system, *de facto preventing* intra-European and international competitiveness.

The current scheme, which equates large companies with SMEs and startups, does not take into account the deep structural asymmetries that exist. The regulatory, insurance and authorization costs, not being proportionate to the economic capacity of the parties involved, could give rise to phenomena of systemic exclusion of smaller companies, compromising the supply chain and the resilience of the entire ecosystem. In France, for example, differentiation thresholds have been established based on turnover and operational risk to overcome this¹⁰.

⁶ *Loi n°2008-518 relative aux opérations spatiales*;

⁷ The obligation to prevent damages (*liability*) and the consequences in relation to the violations of these obligations (*liability*), -from G.C. Sgroso, *Diritto Internazionale dello Spazio*, LoGisma, Florence, 2011;

⁸ Constitutional Court, *Judgment no. 14/2020*;

⁹ Security authorizations in the Italian system, from the portal of the Department for Security Information, Central Office for Secrecy (UCSe) section

<https://ucse.sicurezza nazionale.gov.it/portaleucse.nsf/AbilitazioniSicurezza.xsp>

¹⁰ CNES, *Réglementation des activités spatiales*, 2019;

The Bill, then, provides for mandatory insurance coverage (art. 7), but does not specify which are the dedicated operational tools. The proposal to establish a common fund, on the false of the risk fractionation pools proposed in the 70s, which entered into crisis from the disaster of the Challenger first and then the Columbia¹¹, could satisfy this need. Possibly financed by public and private contributions, this fund can represent a balanced measure¹². Alternatively, it is suggested to allocate a portion of the taxes paid to a technical insurance fund managed by the sector associations, on the model of mutual insurance. This fund could intervene in the event of catastrophic events, liability for collisions or damage from uncontrolled re-entry.

Going on to analyze art. 13 of the bill, the exclusion of representatives of industry and insurance companies from the decision-making tables represents a serious deficit of procedural legitimacy and operation. The principle of participatory governance is now recognized as a standard in the regulation of complex and high-tech industries¹³.

In conclusion, the Italian bill represents a starting point for defining an updated regulatory framework for space activities. However, without the necessary changes, it risks generating counterproductive effects. A systemic vision is needed, consistent with the European context, attentive to the needs of SMEs and oriented towards innovation. Only an integrated, multilevel and participatory approach will allow Italy to establish itself as a protagonist of the new space economy. The critical aspects highlighted - present in art. 2, 4, 5, 7 and 13 of the Space Bill – it is desirable that they be strengthened by implementing measures that create *ex ante procedures* capable of overcoming the impasse of uniformization between different recipients, i.e. prime contractors (large industry) and sub-prime contractors (SMEs and startups), in a framework that is not only harmonized and safe but also capable of growing this neuralgic and peculiar sector.

¹¹ This new configuration seemed to hold up until a major exogenous shock, which occurred on January 28, 1986: the explosion of the US shuttle Challenger. This type of accident went – for NASA – from a probability of 1:100,000 to 1:76 - from D. Germani, *The space sector as a vector of Italian and European economic revival: from the current context to the creation of the Space New Deal*, University of Trieste, 2021;

¹² ANIA, *Insurance Report*, 2021;

¹³ OECD, *Principles for the Governance of Critical Infrastructures*, 2017;

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2. ANIA, *Insurance Report*, 2021;
3. CNES, *Réglementation des activités spatiales*, 2019;
4. Copernicus Programme – *Open Data Access*, ESA, 2022;
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12. OECD, *The Space Economy in Figures*, 2022;
13. UK Space Agency, *Regulatory Framework*, 2022;
14. UNOOSA, *Outer Space Treaty (OST)*, 1967.



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